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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,441	01/27/2004	Wai-Man Ng	1155	1521

7590 05/27/2005
Donald J. Ersler
725 Garvens Avenue
Brookfield, WI 53005

EXAMINER

WONG, STEVEN B

ART UNIT PAPER NUMBER

3711

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,441

Applicant(s)

NG, WAI-MAN

Examiner

Steven Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8, 17 and 20-22 is/are allowed.
- 6) ☒ Claim(s) 9-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102/103

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 9, 10, 14 and 16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Shishido (4,595,200). Regarding claims 9 and 16, Shishido discloses an inflatable ball comprising a first receptacle (4) and a second receptacle (2) located opposite the first receptacle. The first receptacle houses a power source (12) and a sound emitting circuit (7-9) using an impact sensor (10) to activate the sound upon an impact. Note Figures 1, 5a-5d, 6 showing wires that extend within the first receptacle. The wires appear to extend through a middle of the inflatable casing. In the alternative, it would have been obvious to one of ordinary skill in the art to provide wires that extend through a middle of the inflatable casing in order to try to better center the sound emitting device and therefore provide better balance to the ball.

Regarding claim 10, the impact sensor (10) is a shock sensor.

Regarding claim 14, Shishido provides a battery (12).

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4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shishido (4,595,200) in view of Potrzuski et al. (3,935,669). Shishido includes an air nozzle for inflating the ball. To provide additional receptacles such as the first receptacle (4) represents an obvious duplication of parts and their associated functions.

Potrzuski discloses that it is well known in the art of electrical balls to provide multiple sensors placed along different axes. It would have been obvious to one of ordinary skill in the art to provide additional receptacles along different axes in the ball of Shishido in order to provide more sound emitting circuits for increasing the sound of the ball.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shishido (4,595,200) in view of Potrzuski et al. (3,935,669) and Connelly (5,236,383). Note the basis for the rejection of claim 11 set forth in the first Office Action.

6. Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shishido (4,595,200) in view of Potrzuski et al. (3,935,669) and Wang (5,609,411). Note the basis for the rejection of claims 12 and 15 set forth in the first Office Action.

Response to Arguments

7. Applicant's arguments filed March 10, 2005 have been fully considered but they are not persuasive. Regarding claims 1 and 17, the applicant's amendments and accompanying remarks are persuasive and the rejections of claims 1-8, 17 and 20-22 have been withdrawn.

8. Regarding claim 9, the applicant argues that the claim has been amended to recite that the power source is located in one receptacle and the sound emitting device and sound emitting circuit are located in the other and the power source and circuit are connected by at least two wires. However, this argument is not persuasive as the instant claims do not exactly recite this

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construction. Claim 9 states that the power source is retained in one of the first and second receptacles and the sound emitting device and sound emitting circuit are retained in one of the second and first receptacles. The claim does not state that power source and sound emitting device/circuit are necessarily located in separate receptacles. Therefore, the reference to Shishido, which teaches a sound emitting device/circuit and power source all located in a single receptacle, anticipates the claimed structure. Further, while Shishido may not teach running at least two wires between two substantially opposite receptacles, the instant claims fail to recite this arrangement. Claim 9 merely recites two wires connecting the power source and sound emitting circuit. This structure is taught by Shishido within a single receptacle. Regarding the limitation for the wires to run through a middle of the inflatable casing, it is noted that the claim fails to limit the extent to which the wires run through the middle. Therefore, the wires of Shishido that extend for a short distance within the receptacle between the circuit and the power source anticipate the claimed invention. In the alternative if the wires do not extend exactly down the middle of the inflatable casing, it would have been obvious to one of ordinary skill in the art to provide wires that extend through a middle of the inflatable casing in order to try to better center the sound emitting device and therefore provide better balance to the ball.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

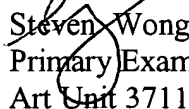
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Steven Wong
Primary Examiner
Art Unit 3711

SBW
May 23, 2005